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1	RECORD OF ORAL HEARING
2	UNITED STATES PATENT AND TRADEMARK OFFICE
3	————————
4	BEFORE THE BOARD OF PATENT APPEALS
5	AND INTERFERENCES
6	————————
7	*Ex parte* CRAIG OGG
8	————————
9	Appeal 2010-009701
10	Application 10/677,619
	Technology Center 3600
11	————————
12	Oral Hearing Held: Tuesday, November 15, 2011
13	————————
14	
15	Before MURRIEL E. CRAWFORD, MEREDITH C. PETRAVICK, and MICHAEL W. KIM, Administrative Patent Judges.
16	
17	ON BEHALF OF THE APPELLANT:
	NATE REES, ESQ.
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1   *The above-entitled matter came on for hearing on Tuesday,*

2   *November 15, 2011, commencing at 1:00 p.m., at the U.S. Patent and*

3   *Trademark Office, 600 Dulany Street, 9th Floor, Hearing Room A,*

4   *Alexandria, Virginia, before Laurie Allen, notary public.*

5

6   JUDGE CRAWFORD: You are before the panel of Crawford,

7   Petravich, and Kim. You can begin whenever you're ready.

8   MR. REES: All right. Well, I appreciate your time. Again, my

9   name is Nathan Rees, and I represent the appellant in this matter,

10   Stamps.com.

11   I think, probably to start, we'd probably be best served with just

12   kind of an overview of the technology and what we're looking at here.

13   The present application is directed towards high-speed

14   processing of mail pieces. Such machines include -- for example, when

15   you're receiving a credit card bill, you know, the machines will print the bill,

16   stuff the envelopes, you know, go along -- you know, prior art machines

17   would meter the envelopes and kind of halt the process, and then print the

18   postage on it based on the -- the weight and the metering of the envelopes.

19   As we describe in our background, prior art devices, because --

20   you know, in applications such as credit card bills or phone bills, there may

21   be multiple pages in one but a single page in another -- different weights

22   occur in these high-speed systems, and that tends to slow down the system.

23   Now, we describe in our background, you know, what generally

24   happens. The Freeman reference is actually an example of exactly what we

25   describe in our background.

26

1   As described in Freeman, mail pieces come along and they are

2   singulated, you know, to go across into a metering system where they are

3   weighted, and then, you know, the meter is changed based on the weight that

4   has been measured, and actually, in Freeman, it discusses that the system is,

5   in fact, halted while the next singulated mail piece is weighted and the

6   indicia that needs to be metered is put on there.

7   Now, I guess, to start, we actually have some 112 issues.

8   JUDGE KIM: Yeah. Can you -- so, the way I see it is that the

9   Examiner is confused, because -- okay. Well, the way I look at it is if you --

10   the second one, where it refers to a mail piece -- I guess all the -- after that --

11   "the mail pieces" after that refer to that one, but I guess the confusion is,

12   what is this "each individual mail piece"? How does that tie in with all the

13   other mail pieces?

14   MR. REES: Well, here's the -- here's the thing. The history on

15   this is that the Examiner had originally given us a 112 rejection, and we had

16   -- we thought we were good as it was, but you know, to try to help the

17   Examiner out and to make it a little bit more precise, we amended the

18   claims, you know, to be as it is, and let's just step through the claim.

19   So, you know, in the preamble, we say, okay, the high-speed

20   processing system, having conveyor for transferring a plurality of mail

21   pieces, right? The first limitation has a postage computing device separately

22   calculating a postage value for each individual mail piece for a plurality of

23   mail -- of said plurality of mail pieces, right? Because postage is calculated

24   for the individual mail piece, right?

25

26

1   But what -- but since this is a high-speed processing system and
2   there is plurality of mail pieces going through -- so, this is why we call out --
3   all right.
4   So, this system is capable of -- it separately calculates value for
5   each individual mail piece of said plurality of mail pieces. This is kind of
6   the best way to keep it in context of the claim.
7   Now, getting more towards the inventive part was we have the
8   postage computing device operated to use the calculated postage value to
9   generate information-based indicia for a mail piece of said plurality of mail
10   pieces in parallel with the mail piece, which is referring back to the "a mail
11   piece," of said plurality of mail pieces being physically created and
12   processed.
13   JUDGE KIM: So, the first one, the "each individual mail
14   piece" -- that's more of a contextual thing, as opposed to --
15   MR. REES: Well, I mean, it refers to -- I mean, I could say
16   calculating postage value for the plurality of mail pieces.
17   JUDGE KIM: Okay.
18   MR. REES: Right? But it's each individual mail piece of the
19   plurality, because you're actually calculating the postage value for an
20   individual mail piece, not for all of the mail pieces together.
21   JUDGE KIM: Okay.
22   MR. REES: So, this is actually a clearer way to say it, and I
23   can see how -- the English language has its own ambiguities just kind of
24   inherent. This, I believe, is actually a clearer way to state what we're trying
25   to state here, and then, a little bit later on, we refer to the mail piece of said
26   plurality of mail pieces, which is, you know, referring back to the mail piece

1   that we referred to later, and then, in the last line, we again say "a computer

2   processing system storing information related to the processing of each

3   individual mail piece and providing the controller" -- because this is the

4   system, and it does it for all of them, right?

5   So, there are certain -- what we were trying to convey here is

6   that there are certain aspects that we do in parallel which speed up the high-

7   speed processing system, and like I said, this was explained to the Examiner,

8   it's been through all the arguments, and what we're saying is that a mail

9   piece of the plurality can -- you know, the information-based indicia can be

10   calculated and generated for a mail piece in parallel with the mail piece,

11   meaning that mail piece, being physically created and processed, whereas

12   the prior art creates it -- it sends it along, then weighs, does whatever. So,

13   we're creating the indicia for a mail piece while that exact mail piece is

14   being created and processed.

15   And so, I guess what we see here -- this 112 issue seems very

16   clear to us, and in fact, I really hated bringing it to appeal, but we had gone

17   back and forth with the Examiner so many times, and we said to the

18   Examiner, this seems like the clearest way, and we're happy to even amend,

19   if we could find a clearer way, but I mean, this seems like the best way to do

20   it, and in fact, we pointed out to, you know, MPEP 2173. That's the section

21   that kind of lays out the requirements for 112, and it says, okay, it's not -- it's

22   not what is the best possible language; it's, you know, what gives us a

23   reasonable degree of particularity, and it even says examiners are

24   encouraged to suggest claim language to improve clarity if they kind of

25   think that there is claim language there.

26

1   But what we think is, you know, in light of the application,

2   where, you know, our background says, you know, we're doing these things

3   -- you know, the background talks about systems that do everything kind of

4   in serial, and that the whole specification is about this kind of parallel

5   processing that we can do.

6   In light of the specification and in light of, you know, the

7   teaching of the prior art that we've already discussed, it seems like the claim

8   interpretation that one of skill in the art would make is the claim

9   interpretation that we're seeing exists right here, and like I said, I can see -- I

10   wouldn't say I say confusion. I think it's clear -- I can see where he's

11   stumbling, I guess, a little bit, but in light of what -- I think that this is the

12   more precise way to define it, right? Because the postage value is for each

13   individual mail piece of the plurality of mail pieces, and that's why -- in fact,

14   this "of a plurality of mail pieces" is the thing that we started propagating all

15   the way through to make it more clear, you know, that we're calling out a

16   mail piece of the plurality of mail pieces, you know, and we're talking about

17   individual -- each individual mail piece, which is talking about all of the

18   plurality, but it's talking about them on an individual basis.

19   JUDGE KIM: Okay. We understand your point here, Counsel.

20   Is there anything else you'd like to address?

21   MR. REES: Really, when it comes down to it, if you guys

22   agree with us on that, everything else falls off. He interpreted -- in fact, in

23   the Examiner's answer, you know, the Examiner interpreted the system to

24   generate indicia while concurrently processing another mail piece, and you

25   know, he never really asserts that Freeman does these things in parallel.

26

1   So, I guess the question is, you know, when it comes down to it,

2   is if you agree with -- that we have actually stated that, you know, we have a

3   mail piece, you know, value for a mail piece and indicia being generated in

4   parallel with that mail piece being created and processed -- if you agree that

5   we have that kind of parallel process being claimed properly, all of the prior

6   art rejections fall off, because the Examiner, like I said, has admitted in both

7   the Office Action and the Examiner's answer, he is interpreting it as, you

8   know, we can generate for a mail piece while a different mail piece is being,

9   you know, created and processed.

10   So, really, that could be -- it could be just as simple as that,

11 unless you guys have anymore questions as to how the art applies -- you

12 know, there -- there were, I guess, you know, in light of some of the

13 dependent claims -- so, that would take care of all the independent claims.

14   In light of the dependent claims, we did have -- you know,

15 Claim 2, we were saying, you know, a quality control unit is adapted to

16 monitor postage value calculated. You know, the thing that the Examiner

17 put in front of us was there was a quality control unit in kind of a mail

18 processing system that was capable of determining whether a piece of the

19 processing system went down, you know, like an actual mechanical

20 malfunction, but that wasn't really monitoring postage value, and we also

21 had an official notice issue.

22   He took official notice of a feature of Claim 20, and we asked

23 him to provide a reference, and Claim 20 was -- Claim 20 talked about a

24 high-speed printer capable of printing postage at any position or orientation

25 on the mail piece.

26

1   When we asked him to provide a reference, he provided a
2   reference that talks about scanning -- you know, something can scan a bar
3   code in any orientation. You know, a bar code could be upside down,
4   sideways, backwards, and it can scan a bar code, and there is a discussion in
5   there talking about, well, we can stick a label on there anywhere, and our bar
6   code scanner can scan it, but that's different than a printer that's actually
7   printing in a high-speed processing system and the printer can actually print
8   no matter the orientation, right?
9   If the letter shows up, you know, with the right corner facing in
10 the right corner, it can print it, as opposed to, if it shows up with the left
11 corner in the right -- on the right side, the printer can still print it properly.
12 That's something that's very different. So, I guess, you know, we had that
13 official notice issue that we've asked him to provide references, and he hasn't
14 provided references that actually teach what has been shown -- or been
15 asserted as well known.
16   But other than that, I mean, like I said, if you -- if you agree
17 with the -- with the analysis of Claim 1 -- I could walk you through the same
18 analysis of Claim 11. It's kind of the same thing. In Claim 11, we have, you
19 know, each mail piece of said mail pieces. We calculate a postage value for
20 each mail piece of mail pieces, and then we generate indicia for an
21 individual mail piece of each mail piece of said mail pieces -- we actually do
22 the three steps -- in parallel with the individual mail piece being processed.
23 So, actually, it's probably even more clear in Claim 11.
24   JUDGE KIM: Yeah, we understand.
25   MR. REES: Okay. Are there any questions for you that I need
26 to address?

1   JUDGE CRAWFORD: No, there aren't.

2   MR. REES: Okay. Well, then -- I feel kind of nervous about

3   leaving this much time -- I guess there's only a few minutes left, but I feel

4   kind of nervous --

5   JUDGE CRAWFORD: Well, feel free, if you want to make

6   further arguments.

7   MR. REES: Well, like I said, I've hit the dependent claim

8   arguments, and I guess I could ask you, do you agree with my analysis that

9   the art rejections really fall off if our -- if our 112 issue is resolved?

10   JUDGE CRAWFORD: Well, we are going to discuss the case

11   after the hearing and see where we come out on that.

12   MR. REES: I'll just point out that the Examiner has stated --

13   right? The Examiner only ever asserts that the prior art generates indicia

14   while, you know, creating a different mail piece. The Examiner never even

15   asserts that the prior art will, you know, generate indicia for a mail piece

16   while that mail piece is actually being either created -- in different claims,

17   it's, you know, going through that other processing, like folding and

18   inserting. The Examiner never even asserts that the prior art teaches it, and

19   the prior art doesn't teach it.

20   As I stated before, the Freeman reference, which is relied on as

21   the primary reference, actually specifically states that the whole system halts

22   while they're doing this metering process, and that's in the summary in

23   column 2 for your reference. In the first paragraph of the summary, it talks

24   about singulating the mail pieces, halting it, and everything in that manner.

25

26

1   So, other than that, like I said, I think I'm good, and you know, I

2 appreciate your time. If you need anything, feel free to ask, but other than

3 that, I can let you go.

4   JUDGE CRAWFORD: Okay. Well, thank you.

5   MR. REES: All right. Thank you. Have a good day.

6   JUDGE CRAWFORD: Bye.

7   (Whereupon, at 1:15 p.m., the proceedings were concluded.)

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